

Kerry L. Haliburton  
State Bar No. 08743400  
of  
NAMAN, HOWELL, SMITH & LEE, PLLC  
P.O. Box 1470  
Waco, TX 76703-1470  
(254) 755-4100  
(254) 754-6331 Fax

ATTORNEYS FOR COMPASS BANK

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

IN RE:	§ CASE NO. 13-10081-BP
	§
ELIAS HERNANDEZ,	§ CHAPTER 13
DEBTOR	§
	§
COMPASS BANK,	§
MOVANT,	§
	§
v	§
	§
ELIAS HERNANDEZ, DEBTOR	§
FLORA MARIE HERNANDEZ, CO-DEBTOR	§
JOHN TALTON, TRUSTEE	§
RESPONDENTS	§

MOTION OF COMPASS BANK FOR RELIEF FROM §1301 CO-DEBTOR STAY  
AGAINST 2233-2249 MEMORIAL BLVD., PORT ARTHUR, TX 77640,  
WITH WAIVER OF THIRTY DAY HEARING REQUIREMENT,  
AND REQUEST FOR HEARING IN BEAUMONT, TEXAS

NO HEARING WILL BE CONDUCTED ON THIS MOTION FOR RELIEF UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH REQUESTS FOR HEARING. IF NO RESPONSE IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF A RESPONSE IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

**TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE OF SAID COURT:**

**NOW COMES**, Compass Bank (hereinafter referred to as “Creditor”), a secured creditor of the Co-Debtor, and files this its Motion for Relief from §1301 Co-Debtor Stay Against 2233-2249 Memorial Blvd., Port Arthur, TX 77640, with Waiver of Thirty Day Hearing Requirement, and Request for Hearing in Beaumont, Texas (the “Motion”), and in support thereof would respectfully show the Court the following:

I.

This is a proceeding under Bankruptcy Rules 4001 and 9014 seeking relief under Section 362(d) and Section 1301 of the Bankruptcy Code. The District Court has jurisdiction over this proceeding pursuant to 28 U.S.C. Section 1334(b) because it arises in or is related to a case under Title 11. Pursuant to 28 U.S.C. Section 157 and the local rules and/or the Order of the United States District Court, this proceeding will be referred to the bankruptcy judge for hearing. This proceeding constitutes a core proceeding as defined in 28 U.S.C. Section 157(b)(2)(G).

II.

Creditor is the holder of a secured claim against the Co-Debtor arising from the execution of the following Loan Modification Agreement and Commercial Real Estate Lien Note executed by the Co-Debtor (hereinafter referred to as “Note”).

Date:	August 2, 2000
Real Property:	<u>2233-2249 Memorial Blvd., Port Arthur, TX 77640 -</u> The legal description of the property is described in Exhibit “A” attached to the Note

A true and correct copy of the Note is attached hereto as Exhibit “A” and is incorporated herein by reference. Creditor has a valid security interest against Real Property by virtue of the Note, which lien has been duly perfected pursuant to state law. Evidence of Creditor’s perfected

security interest is attached hereto as Exhibit "B" and is incorporated herein by reference.

III.

In Debtor's Chapter 13 Plan, Debtor states his intention to surrender the property. The following is a summary of the status of the Note as of April 1, 2013.

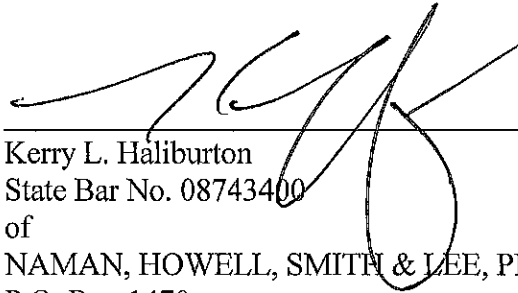
Amount Owing:	\$126,769.73	Voluntary Surrender
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IV.

Creditor asserts, upon information and belief that its interest in the Real Property is not being adequately protected due to the Co-Debtor's failure to make payments and/or failure to maintain insurance on the Real Property. Pursuant to Section 362 and 1301 of the Bankruptcy Code, Creditor is entitled to relief from the co-debtor stay for cause, including the lack of adequate protection.

**WHEREFORE, PREMISES CONSIDERED,** Creditor requests that the co-debtor stay be modified to permit Creditor to foreclose upon its lien and liquidate the Real Property as permitted by the Note and law, and if applicable, permit Creditor to file an unsecured claim for any remaining deficiency balance. Creditor further requests that in the event the Debtor converts to another bankruptcy chapter during the pendency of this bankruptcy proceeding, any Order entered with respect to this motion shall remain in effect. Creditor further requests that Rule 4001(a)(3) not be applicable in this case due to the lack of adequate protection. Creditor further prays that it have such other and further relief, at law or in equity, to which it may show it to be justly entitled.

Respectfully submitted,

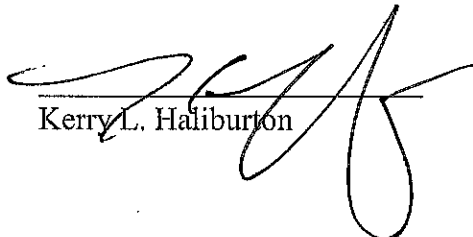
A handwritten signature in black ink, appearing to read 'Kerry L. Haliburton', is written over a horizontal line.

Kerry L. Haliburton  
State Bar No. 08743400  
of  
NAMAN, HOWELL, SMITH & LEE, PLLC  
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(254) 755-4100  
(254) 754-6331 Fax

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing Motion for Relief from §1301 Co-Debtor Stay Against 2233-2249 Memorial Blvd., Port Arthur, TX 77640, with Waiver of Thirty Day Hearing Requirement, and Request for Hearing in Beaumont, Texas was served via electronic means, unless not available, otherwise by regular United States Mail, first class, postage fully prepaid, on April 15, 2013 to the parties listed below.

  
Kerry L. Haliburton

**DEBTOR'S ATTORNEY:**

Robert E. Barron  
P.O. Box 1347  
Nederland, TX 77627

**DEBTOR:**

Elias Hernandez  
3716 Boulder Avenue  
Port Arthur, TX 77640

**CO-DEBTOR:**

Flora Marie Hernandez  
3716 Boulder Avenue  
Port Arthur, TX 77640

**TRUSTEE:**

John Talton  
Chapter 13 Trustee  
110 N. College Avenue, 12 Floor  
Tyler, TX 75702

**U.S. TRUSTEE:**

Timothy W. O'Neal  
Office of the U.S. Trustee  
110 N. College Avenue  
Suite 300  
Tyler, TX 75702

**\*See attached mailing matrix for other parties to be served.**

Label Matrix for local noticing  
0540-1  
Case 13-10081  
Eastern District of Texas  
Beaumont  
Wed Apr 3 16:56:57 CDT 2013

AFLAC  
1932 Wynnton Rd.  
Columbus, GA 31999-0002

AT&T Yellow Pages  
P.O. Box 630052  
Dallas, TX 75263-0052

Ahh! Graphic Design  
3391 Laurel Ave., Ste. 216  
Beaumont, TX 77707-2251

All American Trading of Houston, Inc.  
6622 Supply Row  
Houston, TX 77011-4516

American Express  
POB 650448  
Dallas, TX 75265-0448

Ammeraal Beltech  
7501 North Street Saint Louis Ave.  
Skokie, IL 60076

Antonio Zuniga  
4309 Yoakum Blvd.  
Houston, TX 77006-5856

Bank of America  
POB 15714  
Wilmington, DE 19886-5714

Robert E. Barron  
P.O. Box 1347  
Nederland, TX 77627-1347

Barron & Barron, LLP  
P.O. Box 1347  
Nederland, Texas 77627-1347

Broadlink Telecom, LLC  
POB 2170  
San Antonio, TX 78297-2170

Broker's National Life  
POB 99339  
Fort Worth, TX 76199-0339

CMS IP Technologies  
POB 12130  
Beaumont, TX 77726-2130

Capital One  
333 Travis St.  
Shreveport, LA 71101-3263

Capital One  
PO Box 30273  
Salt Lake City, UT 84130-0273

Capital One  
PO Box 30285  
Salt Lake City, UT 84130-0285

Capital One  
POB 259320  
Plano, TX 75025-9320

Capital One, N.A.  
9441 LBJ Freeway, Suite 350  
Dallas, Texas 75243-4652

Capital One, N.A.  
PO Box 829009  
Dallas, Texas 75382-9009

Capital One, National Association  
P O Box 829009  
Dallas, Tx 75382-9009

Charles E. Reed & Assoc.  
3636 Professional Dr.  
Port Arthur, TX 77642-3881

Chase  
PO Box 94014  
Palatine, IL 60094-4014

Chase  
POB 15123  
Wilmington, DE 19850-5123

Citi Corp  
POB 6500  
Sioux Falls, SD 57117-6500

City of Port Arthur Water  
POB 1089  
Port Arthur, TX 77641-1089

Classic Packaging  
POB 532175  
Atlanta, GA 30353-2175

Colonial Supplemental Insurance  
POB 903  
Columbia, SC 29202-0903

Community Bank  
2801 Turtle Creek Dr.  
Port Arthur, TX 77642-8056

Community Bank  
4749 Twin City Hwy.  
Port Arthur, TX 77642-5837

Community Bank  
POB 26029  
Beaumont, TX 77720-6029

CommunityBank of Texas, N.A.  
c/o Michael J. Lindsay  
710 North 11th St.  
Beaumont, TX 77702-1502

CommunityBank of Texas, N.A.  
PO Box 26017  
Beaumont, TX 77720-6017

CommunityBank of Texas, N.A.  
c/o Lindsay Lindsay & Parsons  
710 N 11th St  
Beaumont, TX 77702-1502

Compass Bank  
P.O. Box 201347  
Arlington, TX 76006-1347

Compass Bank  
PO BOX 10566  
Birmingham AL 35296-0001

Compass Bank  
POB 4943  
Houston, TX 77210-4943

Compass Bank  
POB 830696  
Birmingham, AL 35296-0001

Consolidated Mills Inc.  
POB 4346 Dept. 301  
Houston, TX 77210-4346

Creighton, Fox, Johnson, & Mills, PLLC  
3535 Calder  
Beaumont, TX 77706-5025

East Texas Supply Co.  
POB 3127  
Lake Charles, LA 70602-3127

Entergy  
POB 61009  
New Orleans, LA 70161-1009

Entergy Texas, Inc  
P O Box 6008  
L JEF 359  
New Orleans LA 70174-6008

Enterprise Leasing Co. of Houston  
3990 W. Lucas Dr.  
Beaumont, TX 77706-7127

Farmers Insurance  
914 Bowlin Ave.  
Port Neches, TX 77651-5502

Freightquote.com  
1495 Payshpere Circle  
Chicago, IL 60038

Gulf Pacific Ingredients Co.  
12010 Taylor Rd.  
Houston, TX 77041-1239

Elias Hernandez  
3716 Boulder Avenue  
Port Arthur, TX 77640-2674

Hernandez & Solis, Inc.  
2249 Memorial Dr.  
Port Arthur, TX 77640-2820

Hernandez Office Supply  
119 17th St.  
Nederland, TX 77627-5122

Houston Avocado  
2224 Airline Dr.  
Houston, TX 77009-2490

Howard's Auto  
3301 Gulfway Dr.  
Port Arthur, TX 77642-3669

Imperial Credit Corporation  
1001 Winstead Dr., Ste. 500  
Cary, NC 27513-2130

Internal Revenue Service  
Centralized Insolvency Operations  
P.O. Box 7346  
Philadelphia, PA 19101-7346

J. Shane Howard, Jefferson CAD  
POB 2112  
Beaumont, TX 77704-2112

Jan Pak  
3915 Twin City Hwy.  
Port Arthur, TX 77642-2118

Jefferson County  
POB 2112  
Beaumont, TX 77704-2112

La Campera  
1370 E. 40th St., Bldg. 7  
Houston, TX 77022-4150

Michael John Lindsay  
Lindsay, Lindsay & Parsons  
710 North 11th St.  
Beaumont, TX 77702-1502

Louis Hernandez  
119 N. 17th St.  
Nederland, TX 77627-5122

Joe Lozano  
Buckley Madole, P.C.  
9441 LBJ Frwy., Ste. 350  
Dallas, TX 75243-4652

Martha Morgan  
11235 Ridgecrest St.  
Lumberton, TX 77657-7895

(p)MCPHILLIPS TIRE & AUTO  
5239 E PARKWAY STREET  
GROVES TX 77619-2916

Neches FCU  
776 Magnolia  
Port Neches, TX 77651-3703

Office Depot  
POB 9020  
Des Moines, IA 50368

Orkin Pest Control  
5425 College St.  
Beaumont, TX 77707-3633

Packaging Accessories Inc.  
1695 E. Southlake Blvd.  
Southlake, TX 76092-6424

Plessals's Heat & A/C  
3801 Avalon  
Port Arthur, TX 77642-4130

Port Arthur Economic Development Corp.  
4173 39th St.  
Port Arthur, TX 77642-2227

RJ Mangold Grain Co. Inc.  
POB 69  
La Coste, TX 78039-0069

Riba Foods  
POB 630461  
Houston, TX 77263-0461

Sabine Packaging, Inc.  
809 Pine Ave.  
Orange, TX 77630-5639

Small Business Admin.  
POB 740192  
Atlanta, GA 30374-0192

Small Business Alliance  
1110 Park St.  
Beaumont, TX 77701-3614

Sparrer Sausage Co.  
4325 W. Ogden Ave.  
Chicago, IL 60623-2925

Super Lopez Tortilla Factory  
7314 Harrisburg Blvd.  
Houston, TX 77011-4739

Sysco Food Svcs. of Houston  
1710 Greens Crossing Blvd.  
Houston, TX 77038

John Talton.  
Plaza Tower  
110 N. College Ave, 12 Floor  
Tyler, TX 75702-7226

Terry Wood  
2530 Calder Ave.  
Beaumont, TX 77702-1930

Texas Gas Service  
POB 269042  
Oklahoma City, OK 73126-9042

Time Warner  
POB 650047  
Dallas, TX 75265-0047

U.S. Attorney General  
Department of Justice  
Main Justice Building  
10th & Constitution Ave., NW  
Washington, DC 20530-0001

US Trustee  
Office of the U.S. Trustee  
110 N. College Ave.  
Suite 300  
Tyler, TX 75702-7231

Uline Shipping Supply Specialists  
2200 S. Lakeside Dr.  
Waukegan, IL 60085-8361

United States Attorney's Office  
350 Magnolia Ave., Ste 150  
Beaumont, TX 77701-2254

NW Grainger Inc.  
Dept. 845611169  
Palatine, IL 60038-0001

Wells Fargo  
21680 Gateway Ctr. Dr., Ste. 260  
Diamond Bar, CA 91765-2454

Wells Fargo  
4000 Twin City Hwy.  
Groves, TX 77619-2918

William George Co., Inc.  
POB 1387  
Lufkin, TX 75902-1387

Yellow Book West  
PO Box 660052  
Dallas, TX 75266-0052



The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

McPhillips Tire & Auto  
5239 Hwy. 73  
Groves, TX 77619

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d)Compass Bank	End of Label Matrix	
PO BOX 201347	Mailable recipients	89
Arlington, TX 76006-1347	Bypassed recipients	1
	Total	90